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ATTACHMENT D - 2

COUNTY OF SAN LUIS OBISPO DEPARTMENT OF PLANNING AND BUILDING STAFF REPORT Board of Supervisors

MEETING DATE November 6, 2012	CONTACT/PHONE Terry Wahler, 781-5621	APPLICANT Jorian Clarke	FILE NO. AGP2010-00015						
SUBJECT Proposal by Jorian Clarke to establish an agricultural preserve based on the protection of open space/wildlife habitat resources as provided for in the Williamson Act to enable the applicant to enter into a land conservation contract with appropriate land use restrictions. The property consists of approximately 634.5 acres within the Rural Lands land use category and is located at 9017 Goldie Lane approximately 2,500 feet north of Calf Canyon Highway, approximately 4 miles due south of the Community of Creston. The site is in the El Pomar planning area.									
RECOMMENDED ACTION The Agricultural Preserve Review Committee and Planning Commission recommend approval of this request to establish an agricultural preserve to the Board of Supervisors as follows: <table border="0"> <tr> <td>Preserve Designation:</td> <td>El Pomar Agricultural Preserve No. 87</td> </tr> <tr> <td>Minimum Parcel Size :</td> <td>320 Acres</td> </tr> <tr> <td>Minimum Term of Contract:</td> <td>20 years</td> </tr> </table>				Preserve Designation:	El Pomar Agricultural Preserve No. 87	Minimum Parcel Size :	320 Acres	Minimum Term of Contract:	20 years
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ENVIRONMENTAL DETERMINATION Categorical Exemption (Class 17)									
LAND USE CATEGORY Rural Lands	COMBINING DESIGNATION none	ASSESSOR PARCEL NUMBER 043-291-031	SUPERVISOR DISTRICT(S) 5						
PLANNING AREA STANDARDS: None Applicable		LAND USE ORDINANCE STANDARDS: Section 22.22.040 – Minimum parcel size for agriculture category (new agricultural preserves)							
EXISTING USES: Rangeland, residence									
SURROUNDING LAND USE CATEGORIES AND USES: <table border="0"> <tr> <td><i>North:</i> Agriculture/Rangeland</td> <td><i>East:</i> Rural Lands /Rangeland</td> </tr> <tr> <td><i>South:</i> Rural Lands /Rangeland</td> <td><i>West:</i> Rural Lands /Rangeland</td> </tr> </table>				<i>North:</i> Agriculture/Rangeland	<i>East:</i> Rural Lands /Rangeland	<i>South:</i> Rural Lands /Rangeland	<i>West:</i> Rural Lands /Rangeland		
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OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: None									
TOPOGRAPHY: Moderately to steeply sloping		VEGETATION: Chaparral, shrubs, oak trees							
PROPOSED SERVICES: None required		ACCEPTANCE DATE: September 6, 2012							
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER □ SAN LUIS OBISPO □ CALIFORNIA 93408 □ (805) 781-5600 □ Fax: (805) 781-1242									

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PROJECT REVIEW

Background

Jorian Clark submitted her application in the summer of 2011 on the basis of qualifying under the range land agricultural preserve criteria. A detailed evaluation by staff revealed that despite the large size of the property (674.5 acres) it did not contain the required 100 acres of land moderately or well suited as range land.

The possibility of qualifying as an open space / wildlife habitat was explored. The application was referred to the Department of Fish and Game in the spring of 2012. On September 6, 2012 a letter evaluating the property for wildlife habitat value was received. The Department of Fish and Game confirmed the property's value as open space / wildlife habitat and recommends protecting the property by including it in the Williamson Act program as an open space / wildlife habitat preserve. (Please see the attached letter from the Department of Fish and Game.)

Site and Area Characteristics

The Creston area, which includes the Huerheuro Creek corridor, is considered an important wildlife corridor between the Carrizo Plain and Camp Roberts. The subject parcel consists of moderately to steeply sloping natural terrain with coastal scrub, mixed chaparral and chamise-redshank chaparral prevalent throughout the property. These plant communities are listed as "sensitive" under the California Natural Diversity Data Base. Special status species wildlife and plant species considered to be "species of greatest conservation need" have been documented in similar habitats in the vicinity of the subject property and are therefore expected to inhabit the property. Adjacent properties to the north are used primarily for cattle grazing and are under agricultural preserve and contract.

The following table shows the Natural Resources Conservation Service soils rating of the landowners two parcels:

Land Capability Class		Irrigated Crop Suitability	Rangeland Suitability	Dry Farm Suitability	Acres
If Irrigated	Non-Irrigated				
3	4	NA	well suited	NA	5.5
NA	6	NA	moderately suited	NA	55
NA	6	NA	poorly suited	NA	146
NA	7	NA	moderately suited	NA	26
NA	7	NA	poorly suited	NA	442
				Total	674.5

As the above table shows, the property contains only 86.5 acres of land with soils rated as moderately to well suited as rangeland and lacks the minimum 100 acres required by the Rules of Procedure. A 40 acre parcel, a small portion of the land holding, was subsequently withdrawn from the application.

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Exhibit A shows the location, topography, and land use designations of the site and adjacent properties.

Compliance with the Agricultural Preserve Rules of Procedure

As noted above, the property is not eligible for an agricultural contract because it does not meet the current eligibility requirement for a rangeland preserve since it has less than 100 acres of land described as "moderately to well-suited as rangeland" in the Natural Resources Conservation Service soils survey.

However, the site does qualify under Section D.1.b, Agricultural Preserves for Open-space and Recreational Uses in the Rules of Procedure. The criteria used to evaluate the property includes the following:

D.1.b. A "wildlife habitat area," which is a land or water area designated by the Board of Supervisors, after consulting with and considering the recommendation of the State Department of Fish and Game, as an area of great importance for the protection or enhancement of the wildlife resources of the state.

and

D.3.e. Considerations for "Wildlife Habitat Area". The following considerations are to be used for the review of applications submitted under the above definition of "wildlife habitat area", which is likely to generate the majority of applications under the open-space and recreational uses:

- (1) Plant species diversity (to be provided by the landowner) including: (a) number and diversity of plant species found in different vegetative layers (ground, shrub, and canopy) and (b) size of vegetation
- (2) Soil variations and significant soil properties (to be provided by the county) including: (a) Natural Resources Conservation Service map of the area and (b) soil properties such as texture, depth to bedrock, depth to the high water table and other features important to plant growth
- (3) Animal species diversity (provided by the California Department of Fish and Game) including an estimate of the seasonal and annual species with reference to the "Species Summary Report" produced from the "California Wildlife Habitat Relationships System"
- (4) Presence of rare and endangered species (as determined by the California Department of Fish and Game or the landowner's consultant)

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- (5) Wildlife habitat types (provided by the landowner and checked by the county) including the evaluation and documentation of the presence and extent of vernal pools, dense oak woodlands, riparian zones and chaparral on the site
- (6) Importance of the habitat to contiguous properties (as determined by the California Department of Fish and Game or the landowner's consultant) including: (a) the significance of the site as part of a wildlife habitat corridor versus an isolated patch, (b) size and quality of vegetation and (c) whether or not the habitat has been degraded.
- (7) Function of the site as a corridor or linkage for migration of wildlife (as determined by the California Department of Fish and Game or the landowner's consultant).

Staff has reviewed background information regarding the value of the property as open space / wildlife habitat as well as the Department of Fish and Game's letter and believes that this property meets the intent of this section of the Rules of Procedure.

The appropriate minimum parcel size is 320 acres because 320 acres is the largest minimum parcel size identified in the Rules of Procedure and it is important to keep this property intact to serve as open space / wildlife habitat. The appropriate minimum term of contract is 20 years because the site is located more than one mile from the Santa Margarita urban reserve line, the closest urban reserve line in the vicinity.

Agricultural Preserve Review Committee

The following is an excerpt from the Minutes of the Regular Meeting of the Agricultural Preserve Review Committee held on September 17, 2012 at the U.C. Cooperative Extension Auditorium, San Luis Obispo, California, at 1:30 p.m.

Terry Wahler, staff: presents staff report, describes property, agricultural use and basis for eligibility.

Notes a correction to acreage from 640 acres to 674.56 acres.

Royce Larson: asks if there is currently cattle grazing with Ms. Clarke stating the cattle are not currently grazing in the area because this property is intended for wild life habitat/open space.

Jorian Clarke: explains educational efforts being conducted related to agriculture and long term conservation goals.

Jon Pedotti: asks if there will be monitoring with Mr. Wahler stating the land owner will be expected to limit land uses to those that are consistent with their land conservation contract. Mr. Wahler notes that systematic program monitoring occurs through the Planning Department's Tidemark permit tracking system which flags all contracted properties and enables staff to monitor requests for permit applications for Williamson Act compliance as well as annual questionnaires sent to land owners from the Assessor Office.

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Warren Hoag: states the Dept. of Fish & Game becomes involved should any habitat values they regulate become compromised.

Dana Merrill: asks if grazing is outright precluded with Mr. Wahler stating grazing is an allowable use.

Jorian Clarke: states she is looking for contacts at Cal Poly University to evaluate other appropriate agricultural uses.

Don Warden: asks what are compatible land uses for a contract based on conservation purposes.

Warren Hoag: explains allowable uses and notes that the property will require re-zoning from Rural Lands to the Open Space land use category since the Williamson Act requires restrictive zoning on contracted properties.

Royce Larson: asks if there are any structures that would conflict with the open space contract with Mr. Hoag explaining the home is pre-existing and established.

Robert Sparling: feels the Williamson Act is primarily for productive agricultural properties, not open space. Has concerns for conservation efforts that are non-productive as far as agriculture is concerned, including wild life and open space. Wishes to keep the focus on productive agriculture.

Dick Nock: would like to know what the difference in property tax would be from non-contracted status to contracted.

Michael Garcia: states it is a significant assessment change in property tax value which could be as much as \$11,000.00 in tax dollars annually.

Dick Nock: has a concern about this land not being in agricultural production in terms of the overall loss of agricultural land.

Jorian Clarke: explains research has been conducted to find out what the land can be used for with pesticide free production.

Warren Hoag: explains the Williamson Act (WA) has a specific provision for open space uses and reads from the WA. Discusses the letter received from Fish & Game.

Bob Hill: concurs with Mr. Wahler and would support this application. Feels having the land going under contract is cheaper than pursuing a conservation easement with the Land Conservancy.

Marc Lea: asks what the minimum parcel size would be in this category with Mr. Wahler stating it is 320 acres.

Jon Pedotti: asks the applicant if she has considered a reduced level of grazing with Ms. Clarke stating experts would be welcome to provide insight and recommendations for other compatible agricultural uses and indicates she would be open to considering other agricultural uses such as grazing.

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Terry Wahler, staff: explains the existing Rural Lands land use category and the requirement to change the zoning to Open Space and indicates that the Open Space land use category is more restrictive.

Following the discussion, Bob Hill moved to approve this request to establish an agricultural preserve to allow the applicant to enter into a land conservation contract, Preserve Designation: El Pomar Agricultural Preserve No. 87. Minimum Parcel Size: 320 acres. Minimum Term of Contract: 20 years. This motion was seconded by Dana Merrill, and carried on an 8-1-1 vote with the Cattlemen's Association member abstaining from the vote, the Public At Large member voting "No", and the Farm Service Agency, Soil Science, and County Planning Department members being absent.

Dick Nock: explains his abstention vote is due to his concern with more lands coming under contract without agricultural production.

Robert Sparling: explains his 'No' vote is because he feels that the emphasis of the Williamson Act (and compensation for land owners in the form of reduced property taxes) should be on productive agricultural lands and not open space.

Planning Commission

The application was placed on the Planning Commission's October 11, 2012 consent agenda for their review and recommendation to the Board of Supervisors. The item was pulled for discussion at the meeting. Staff responded to questions from the Planning Commission, proposed a revision to "Finding A" and presented a request from the landowner that was received on October 9, 2012.

After the Agricultural Preserve Review Committee considered this application and voted to recommend approval to the Board of Supervisors, the applicant reviewed the allowable land uses in the Open Space Land Use Category. The Rules of Procedure to Implement the California Land Conservation Act of 1965 require that properties entering into open space/wildlife habitat contracts be subject to general plan amendment to the Open Space land use category.

After considering the more limited land uses allowed under the Open Space land use category the applicant requested that one of her two legal parcels (the smaller 40 acre parcel) be withdrawn from consideration so there would be greater flexibility for future agricultural use and potential educational activities related to conservation and sustainable agriculture. The large remaining parcel, at 634.5 acres, exceeds the minimum 100 gross acreage requirement in the Rules of Procedure and is eligible for preserve and contract. The Planning Commission recommended approval of the revised application to the Board of Supervisors on a 4 to 0 vote. The revised "Finding A" and revised "Exhibit A" (graphic) are included in this staff report.

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RECOMMENDATIONS

The Agricultural Preserve Review Committee and Planning Commission recommend approval of this request to establish an agricultural preserve to the Board of Supervisors as follows:

Preserve Designation:	El Pomar Agricultural Preserve No. 87
Minimum Parcel Size:	320 Acres
Minimum Term of Contract:	20 years

FINDINGS

- A. The proposed establishment of this Agricultural Preserve is consistent with the San Luis Obispo County General Plan, including the Land Use Element, the Agriculture Element, the Conservation and Open Space Element, and the Rules of Procedure to Implement the California Land Conservation Act of 1965, and the land included within the Agricultural Preserve, after consultation with and considering the recommendation of the State Department of Fish and Game, is an area of importance for the protection and enhancement of the wildlife resources of the State and is hereby designated as a Wildlife Habitat Area pursuant to the provisions of Government Code section 51201(j).
- B. The proposed establishment of this agricultural preserve is appropriate and consistent with the character of the surrounding area.

Report prepared by Terry Wahler
and reviewed by Warren Hoag
Land Conservation Program